

Remarks

1. Summary of the Office Action

In the Office Action mailed February 2, 2010, the Examiner objected to the drawings, rejected claims 12-16, 20, and 22 under 35 U.S.C. § 112, first paragraph, separate rejected claims 15, 16, and 18 under 35 U.S.C. § 112, first paragraph, rejected claims 19 and 21-23 under 35 U.S.C. § 112, second paragraph, rejected claims 9-10, 21, and 23 under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 7,254,141 (Desai) in view of United States Patent No. 6,754,189 (Cloutier), rejected claims 11 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Desai and Cloutier and further in view of United States Patent App. No. 2003/0058871 (Sastry), rejected claims 12, 17-18, and 22 under 35 U.S.C. § 103(a) as being unpatentable over Desai and Cloutier and further in view of United States Patent Application No. 2008/0056226 (Zhao), rejected claims 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Desai, Cloutier, and Zhao and further in view of United States Patent No. 5,764,645 (Bernet), and rejected claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Desai, Cloutier, and Zhao and further in view of United States Patent Application No. 2006/0071853 (Sayers).

2. Amendment to the Specification

Applicants have attached an Amendment to the Specification that amends the written portion of the text to include the full text of the originally filed claims 1-8. No new matter has been added. Additionally, the Amendment to the Specification includes a description of newly added claims 2 and 3, which finds supported in the originally filed specification and claims. No new matter has been added.

3. Amendment to the Drawings

Applicants have included with this response an amendment to FIG. 1 to include the proper figure identifier, the addition of new drawing FIG. 2 that finds support in the originally filed specification and claims, and the addition of new drawing FIG. 3 that similarly finds support in the originally filed specification and claims. No new matter has been added.

In light of the foregoing, Applicants respectfully request that the Examiner's objection to the drawings be withdrawn.

4. Summary of the Claims

By this response, Applicants have amended independent claim 9 and dependent claims 11, 17, 19, and 21-23 are currently amended. Claims 12-16 and 20 are currently canceled.

5. Interview Summary

Applicants thank the Examiner for conducting the interview on 4/8/2010. Prior to the interview, Applicants provided Examiner Kao with a draft copy of the amendments to claims 9 and 11 as set forth above. No demonstrations were conducted. During the Interview, Applicants explained how amended claims 9 and 11 distinguished over the cited references of record. Examiner Kao stated that he would review the references and likely conduct a new search. Applicants also discussed the amendment to the specification to incorporate the disclosure of the originally filed claims. Examiner Kao stated that he would review these amendments further in the future. Finally, Applicants and the Examiner discussed the outstanding objections to the drawings. Applicants and the Examiner agreed that new figure(s) would be added tracking the original claims. No agreement regarding allowability was reached.

6. The Examiner's objection to the drawings should be withdrawn

As agreed during the interview, Applicants have drafted new FIG.'s 2 and 3 that track the originally filed claims. No new matter has been added. In light of the foregoing, Applicants respectfully request that the objection to the drawings be withdrawn.

7. The Examiner's rejection of claims 12-16 under 35 U.S.C. § 112 should be withdrawn

Applicants respectfully submit that the Examiner's rejection of claims 12-16 has been rendered moot by the cancelation of these claims.

8. The Examiner's rejection of claim 18 under 35 U.S.C. § 112 should be withdrawn

As set forth above, in the last Office Action the Examiner rejected claim 18 under 35 U.S.C. § 112, first paragraph. More specifically, the Examiner stated that claim 18 "require[s the] halting of a data link by a termination condition, which is not found in the specification."

Applicants respectfully submit, however, that claim 7 of the originally filed specification fully discloses and supports the claim limitations found in claim 18. This disclosure has been added to the specification in the Amendment to the Specification noted above.

For at least these reasons, Applicants respectfully request that the Examiner's rejection of claim 18 under 35 U.S.C. § 112 be withdrawn.

9. The Examiner's rejection of claims 19 and 21-23 under 35 U.S.C. § 112 should be withdrawn

Applicants respectfully submit that the Examiner's rejection of claims 19 and 21-23 has been cured by the attached amendments to the claims. In light of the foregoing, Applicants respectfully request that the Examiner's rejection be withdrawn.

10. The inventions defined in amended claims 9-10, 21, and 23 do not reasonably or logically flow from the teachings of the cited Desai and Cloutier references

As set forth above, in the last Office Action the Examiner rejected claims 9-10, 21, and 23 under 35 U.S.C. § 103(a). Applicants respectfully submit that the Examiner can not establish a prima facie case of obviousness of the pending claims, especially in view of the current amendments to the claims.

First, Applicants respectfully submit that the invention of amended independent claim 9 is not disclosed or suggested by the cited references of record, alone or in combination. As set forth in the attached amendments to the claims, independent claim 9 has been amended to clarify that the claimed invention is executed by a “first wireless station” that “receiv[es] a request for a new data link ... generated from a first application at the first wireless station.” (Emphasis added).

In the last Office Action, the Examiner exclusively relied upon the Desai reference for disclosing or suggesting the claim limitation “a first station” “receive[es] a request for a new data link...from a first application at the first station.” (See pages 7-8 of the Office Action). Desai, however, is directed to an optical switching device positioned between an originating (terminal 100) and destination (terminal 200) end-point (See Fig. 2). The switch disclosed and Desai, and relied upon by the Examiner, therefore, receives a data link connection request from terminal 100 and thus, terminal 100 in Desai (the originator of the request) has already decided to establish the connection. In contrast, the currently claimed invention requires that “a first application at the first station” generate a “request for a new data link” and that the first wireless device itself “determine[s] an available free channel capacity” and whether to “delay[] the establishment of the new data link.” Desai makes no disclosure or suggestion regarding such functionality in terminal 100 or 200.

For at least this reason, Applicants submit that the Examiner can not (and did not) establish a prima facie case of obviousness regarding independent claim 9.

Second, Applicants submit that the Desai reference is explicitly directed to an optical switching device. Desai makes no disclosure or suggestion regarding an application to a “first wireless station” or a determination of “free channel capacity of [a] wireless transmission medium.” (Emphasis added).

For at least this reason also, Applicants respectfully submit that the Examiner can not establish a prima facie case of obviousness of independent claim 9.

For at least the reason that dependent claims 10, 21, and 23 inherit all of the limitations of independent claim 9, Applicants submit that these claims are also now in condition for allowance.

11. The inventions defined in amended claims 11 and 19 do not reasonably or logically flow from the teachings of the cited Desai, Cloutier, and Sastry references

As set forth above, in the last Office Action the Examiner rejected claims 11 and 19 under 35 U.S.C. § 103(a). Applicants respectfully submit that the Examiner can not establish a prima facie case of obviousness of the pending claims, especially in view of the current amendments to the claims. As set forth on pages 14-15 of the Office Action, the Examiner conceded that the Desai and Cloutier references, alone or in combination, failed to disclose or suggest the additional limitations of claims 11 and 19. In light of this admitted shortcoming, the Examiner cited and exclusively relied upon the Sastry reference for disclose or suggesting the additional limitations of dependent claims 11 and 19.

Applicants submit, however, that the Sastry reference fails to disclose or suggest the currently claimed invention for at least the reason that the reference does not disclose or suggest what the Examiner relies upon the reference for disclosing or suggesting.

Similar to the Desai reference noted above, the Sastry reference is directed to inter-network forwarding routers that receive already-generated data links from an originating device, and fails to disclose or suggest any application to a “first wireless device” that originates a new data link after “receiving a request for [the] new data link ... generated from a first application at the first wireless station.” Sastry thus fails to disclose or suggest that the disclosed bandwidth allocation methods are applied as a part of “a first application at the first station” generating a “request for a new data link” and that the first wireless device itself “determine[s] an available free channel capacity” and whether to “delay[] the establishment of the new data link.

For at least this reason, Applicants submit that the Examiner can not establish a prima facie case of obviousness regarding dependent claims 11 and 19.

Furthermore, Sastry fails to disclose “wherein a maximum threshold level of capacity currently allocated to data links having a priority level less than the first priority level that can be considered as free channel capacity is defined at the first wireless station, and applied in determining free channel capacity, and the method further comprises preventing the first wireless station from characterizing all of the channel capacity currently allocated to data links having a priority level less than the first priority level above the maximum threshold level as free channel capacity.”

Sastry, instead, describes a method in which bandwidth assigned to different priorities is modified in the instance of a bandwidth drop. As set forth in paragraph [0048], Sastry explicitly envisions allowing bandwidth assigned to a lowest priority class (Class C) to receive no bandwidth allocation. There is simply no disclosure or teaching in Sastry regarding setting a “maximum threshold level of capacity to data links having a priority level less than the first priority level that can be considered as free channel capacity,” and “preventing the first wireless station from

characterizing all of the channel capacity currently allocated to data links having a priority level less than the first priority level above the maximum threshold level as free channel capacity.” In fact, Sastry teaches the opposite in paragraph [0048].

For at least this reason also, Applicants respectfully submit that the Examiner can not establish a prima facie case of obviousness in view of the Desai, Cloutier, and Sastry references.

12. The inventions defined in claims 12, 17-18, and 22 do not reasonably or logically flow from the teachings of the cited Desai, Cloutier, and Zhao references

As set forth above, in the last Office Action the Examiner rejected claims 12, 17-18, and 22 under 35 U.S.C. § 103(a). Applicants respectfully submit that claims 12, 17-18, and 22 are dependent upon independent claim 9, now believed in condition for allowance. For at least the reason that the Zhao reference does not compensate for the failed disclosure and/or teaching of Desai and Cloutier, Applicants respectfully submit that claims 12, 17-18, and 22 are now also in condition for allowance.

13. The inventions defined in claims 13-16 do not reasonably or logically flow from the teachings of the cited Desai, Cloutier, Zhao, and Burnett references

As set forth above, in the last Office Action the Examiner rejected claims 13-16 under 35 U.S.C. § 103(a). Applicants respectfully submit that claims 13-16 are dependent upon independent claim 9, now believed in condition for allowance. For at least the reason that the Zhao and Burnett references do not compensate for the failed disclosure and/or teaching of Desai and Cloutier, Applicants respectfully submit that claims 13-16 are now also in condition for allowance.

14. The invention defined in claim 20 does not reasonably or logically flow from the teachings of the cited Desai, Cloutier, Zhao, and Sayers references

As set forth above, in the last Office Action the Examiner rejected claim 20 under 35 U.S.C. § 103(a). Applicants respectfully submit that claim 20 is dependent upon independent claim 9, now believed in condition for allowance. For at least the reason that the Sayers reference does not compensate for the failed disclosure and/or teaching of Desai and Cloutier, Applicants respectfully submit that claim 20 is now also in condition for allowance.